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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
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10 UNITED STATES OF AMERICA,
11 Plaintiff,
12 v.
13 LONNIE TROY,
14 Defendant.

Case No. 2:10-cr-00221-LDG (GWF)

ORDER

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16 The Ninth Circuit remanded this case for the limited purpose of permitting this court
17 to grant or deny a certificate of appealability. The Court will deny a certificate of
18 appealability.

19 The Court declines to issue a certificate of appealability because (a) the Court
20 denied defendant's 28 U.S.C. §2255 motion as untimely; (b) the timeliness of defendant's
21 28 U.S.C. §2255 motion required a determination that the Supreme Court recognized, in
22 *Johnson v. United States*, 135 S.Ct 2551 (2015), that 18 U.S.C. §924(c)'s residual clause
23 is void for vagueness in violation of the Fifth Amendment; but (c) the Ninth Circuit resolved
24 that question, holding that it did not. *United States v. Blackstone*, 903 F.3d 1020, 1028 (9th
25 Cir. 2018) (*cert. denied* 2019 WL 2211790, U.S., June 24, 2019).

26 Accordingly,

1 THE COURT **DECLINES** to issue a Certificate of Appealability for defendant's
2 appeal of this Court's Order (CM/ECF #64) denying his motion brought pursuant to 28
3 U.S.C. §2255.

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5 DATED this 30 day of July, 2019.

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Lloyd D. George
United States District Judge